HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

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WRIT APPEAL No.175 OF 2007

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Between:

Government of India, represented by
its Deputy Secretary, Ministry of Home
Affairs, Freedom Fighters Division,
New Delhi. .... Appellant

AND

Panjala Rajaiah .....Respondent

:: J U D G M E N T ::

Counsel for the appellant : Sri A.Rajashekar Reddy

Counsel for the respondent : Sri Kowturu Vinaya Kumar

20th February 2007

Per G.S.SINGHVI, C.J.

This appeal is directed against order dated 21-3-2006 passed by the learned Single Judge in Writ Petition No.21159 of 2005, whereby he directed the non-petitioner (the appellant herein) to sanction pension in favour of the writ petitioner (the respondent herein) with effect from the date of rejection of his claim by the Government of India.

The respondent claims to have participated in the freedom movement launched against the regime of the Nizam of Hyderabad in 1947-48. He submitted an application in 1985 for grant of pension under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short, 'the 1980 Scheme'). The Government of Andhra Pradesh recommended his case to the Government of India, but the latter rejected the same on the ground that the border camp mentioned in the application does not appear in the list of border camps certified by the erstwhile Hyderabad Special Screening Committee. This was conveyed to the respondent vide letter dated 1-8-2003, who then persuaded the State Government to send clarification to the Government of India vide letter No.43379/FF.1/A2/
03-1, dated 21-10-2003 that he had participated in the border camp at Chanda. This time, the Government of India rejected the respondent's claim on the premise that the name of the camp given in report
dated 21-10-2003 sent by the Government of Andhra Pradesh is different than the name of the border camp mentioned in the initial report, and it is not possible for a person to make a mistake about the name of the camp where he lived for more than six months.

The respondent challenged the last mentioned decision of the Government of India in Writ Petition No.21159 of 2005. He pleaded that the so-called discrepancy in the name of the camp was not sufficient to deprive him of his legitimate right to get pension by being treated as a freedom fighter.

The learned Single Judge referred to paragraphs 6 and 10 of the 1980 Scheme and held that the non-petitioner gravely erred by

refusing to rely on the recommendations made by the State Government for grant of pension to the writ petitioner. Accordingly, the learned Single Judge directed the non-petitioner to sanction pension to the writ petitioner.

We have heard learned counsel for the parties and perused the record. A reading of letter dated 1-8-2003 shows that the respondent's claim for grant of pension under the 1980 Scheme was rejected by the appellant on the ground that the name of the border camp allegedly attended by the respondent did not figure in the list available before the Hyderabad Special Screening Committee. This is evinced from the following extracts of communication dated 1-8-2003:

> "I am directed to refer to the State Government letter No.C-5/750/2002, dt.10-8-2000 on the subject mentioned above and to say that your application for grant of Swatantrata Sainik Samman Pension Scheme has been examined by this Ministry keeping in view the State Government report referred to above and the documents submitted by you. However, your claim cannot be admitted because of the inconsistencies/deficiencies indicated below:
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> (ii) The name of the border camp mentioned in your application/ certified by camp in-charge does not appear in the list of border camps certified by the erstwhile Hyderabad Special Screening Committee."

Thereafter, the State Government, vide its letter dated 21-10-2003 again forwarded the respondent's claim with the request that the same may be re-considered in the backdrop of the fact that the correct name of the camp attended by the claimant was Chanda and not Hanmakonda. For the sake of convenient reference, the extracts of that letter are reproduced below:

> "I am directed to invite attention to your letter 1st cited and to inform that Sri Panjala Rajaiah S/o. Laxmaiah R/o.Mylaram (V), Ghanapur (M) has submitted an application stating that he has participated in the freedom struggle against Nizam Government and worked underground in the Camp of Chanda under the charge of V.Rajeswara Rao. But, in the verification report forwarded to the Government it was mentioned that he

worked in the Hanmakonda under the camp in-charge of V.Rajeswara Rao, basing on the report of RDO, Mulugu and co-freedom fighters certificates furnished. Now, he has furnished the revised co-freedom fighters certificates duly mentioning the correct name of the camp as "Chanda" Camp.

While submitting the revised verification report together with the certificates of freedom fighters, the District Collector, Warangal, has requested to reconsider the case for sanction of freedom fighter pension under Central Scheme.

I am, therefore, directed to enclose the reference 2nd cited together with its enclosures and to request you to reconsider the case for sanction of freedom fighter pension to Sri P.Rajaiah, S/o.Laxmaiah, R/o.Mylaram (V), Ghanapur (M), Warangal District under Central Scheme."

The Government of India re-considered the respondent's claim and rejected the same by recording the following observation:

"I am directed to refer to your representation dt.Nil received through Government of Andhra Pradesh's letter No.43379/FF.1/A2/03-1, dt.21-10-2003 on the subject mentioned above and to say that your case has been reviewed but it is not possible to accept the fresh report of the State Government in which the name of the camp is different because it is not possible that a person can make a mistake about the name of the camp where he lived for more than six months."

In our opinion, the 1980 Scheme framed by the Government of India does not obligate the Central Government to accept the recommendations made by the State Government for grant of pension to a person claiming himself to be a freedom fighter. No doubt, the recommendations made by the State Government deserve due consideration and weightage, but final decision in the matter is required to be taken by the Central Government, which is not only entitled, but is bound to consider the recommendations of the State Government together with other relevant records and form an independent opinion on the eligibility and entitlement of the claimant to receive pension under the 1980 Scheme. There is nothing in the language of paragraphs 6 and 10 of the 1980 Scheme or any other

paragraph thereof from which it can be inferred that the recommendations made by the State Government for sanction of pension to an applicant are binding on the Government of India and the latter is duty-bound to sanction pension to the person recommended by the State Government. Therefore, the view expressed by the learned Single Judge that the recommendation made by the State Government in the respondent's favour was binding on the Central Government cannot be sustained.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside. However, keeping in view the fact that before rejecting the respondent's claim on the premise that the information given by him about the border camp was contradictory, the appellant did not give him notice and opportunity of hearing, we deem it proper to set aside the decision of the Government of India, which was conveyed to the respondent vide letter dated 8-7-2004. Ordered accordingly. The competent authority of the Government of India shall re-consider the respondent's claim for pension in the light of the recommendations made by the State Government and pass appropriate order within a period of two months from the date of receipt of copy of this order. The respondent is given liberty to submit additional documents directly to Deputy Secretary to the Government of India, Ministry of Home Affairs (Freedom Fighters Division), New Delhi, in support of his claim for pension. This must be done by him within a period of two weeks from today. Within next six weeks, the competent authority shall consider the entire evidence and pass appropriate reasoned order accepting or rejecting the respondent's claim for grant of pension under the 1980 Scheme. The order shall be communicated to the respondent by registered post at the end of two months period.

G.S.SINGHVI, C.J.

20th February, 2007

G.V.SEETHAPATHY, J.

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